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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,270	11/30/2000	David D. McKay	7533	6472

27752 7540 05/13/2003

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EXAMINER

HUG, ERIC J

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 05/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/586,270

Applicant(s)

MCKAY ET AL.

Examiner

Eric Hug

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 12 and 14-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12 and 14-25 is/are rejected.
- 7) ☐ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) \*
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

Claim 14 is objected to because it depends on cancelled claim 13. It should depend on claim 12. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 12, 14-21, and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Jenny et al (US 5,753,079). Jenny discloses a paper softening composition comprising water, cationic softening agents, and a nonionic compound having the formula  $\text{HO}-(\text{X}-\text{O})_x-\text{R}-(\text{O}-\text{Y})_y-\text{OH}$ , where X, Y, x, and y are given in column 2, lines 50-58. Effectively, the compound is an alkoxyated aliphatic diol. Possible cationic softening agents include quaternary ammonium compounds (see column 5, lines 30-38; also column 7, formula (vi); column 8, formula (xii); column 9, formula (xiv, xv); column 10, formula (xviii)). The presence of the nonionic compound allows one to formulate a composition with high solids concentration at a manageable viscosity. Other nonionic compounds can be used to lower the viscosity (column 13, lines 35-36). Salt can be added to thin the formulation and the amount of glycols typically used to enhance dispersibility can be significantly reduced (column 14, lines 22-39). The concentration of the softening agents

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can be anywhere between 5-80% by weight of the formulation. The nonionic component is 5-50% by weight of the formulation. The nonionic compound is equivalently the claimed bilayer disrupter. Therefore, the formulation has softening agents dispersed in water, and additionally salt and a bilayer disrupter (nonionic surfactant) for viscosity reduction.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jenny et al in view of Hutcheson (US 5,417,753) or in view of Fereshtekhou et al (US 5,527,560). Jenny teaches that calcium chloride can be used to reduce the viscosity of the dispersion, but does not explicitly disclose how much should be used. In Fereshtekhou it is disclosed to use about 0.5% of salt in a formulation comprising water, softeners, and ethoxylated aliphatic alcohol. At the time of the invention, it would have been obvious to one skilled in the art to use an amount of salt between 0.1-20% of the weight of the dispersion for reducing the viscosity of the dispersion of Jenny, as any more would unnecessary increase the overall solids content of the dispersion without reducing the viscosity.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. NOTE: These references all pertain to softening compositions and all contain components of the present invention.

Hutcheson (US 5,296,024) discloses a softening composition for paper comprising cationic softeners (amine compounds), a surfactant for dispersibility control (polyoxyethoxylated tallow amine), salts such as sodium chloride for controlling the viscosity, and water.

Sakata et al (US 5,498,350) discloses a liquid softener composition for clothes comprising up to 30% by weight of softening agents (polyhydric alcohol ester and cationized cellulose) dispersed in water. The composition may also contain a nonionic surfactant for dispersibility, a glycol, and a water soluble salt.

Harmalker et al (US 5,308,513) discloses a fabric softening composition comprising water, up to 30% softening agents, plus nonionic surfactants (under the NEODOL name), and salts for viscosity control.

### ***Response to Arguments***

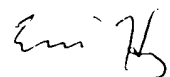
Applicant's arguments and amendments to the claims have overcome all rejections set forth in the previous office action.

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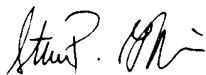
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 703 308-1980. The examiner can normally be reached on Monday through Friday, 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and 703 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0651.



jeh  
May 7, 2003

  
STEVEN F. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700